

## Message Text

CONFIDENTIAL

PAGE 01 NEW DE 00228 070429Z

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ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 NSCE-00 /026 W

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O 070345Z JAN 74

FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC IMMEDIATE 6121

C O N F I D E N T I A L NEW DELHI 0228

EXDIS

FROM AMBASSADOR FOR SOBER

E.O. 11652: GDS

TAGS: EAID, IN, US

SUBJECT: PL 480 NEGOTIATIONS

REF: STATE 1946

1. I APPRECIATE YOUR EXPLANATION OF THE DEPARTMENTS'S INTRANSIGENCE ON EXPORT LIMITATIONS. I APPRECIATE EVEN MORE YOUR ASSURANCE THAT OUR USIDE IS PROCEEDING IN GOOD FAITH AND STILL INTENDS TO CONCLUDE AN AGREEMENT AT THE EARLIEST POSSIBLE DATE. PERHAPS WHAT WE NEED MOST AT THIS CRITICAL JUNCTURE IS A MEASURE OF CREATIVE DRAFTSMANSHIP TO ELIMINATE OR DEFUSE THE "POLITICAL" PROBLEM WHICH IS DEDEVILING BOTH PARTIES TO THIS OTHERWISE STRAIGHTFORWARD NEGOTIATION.

2. FOR THE USG AS WEE AS THE GOI, THE PROBLEM IS ESSENTIALLY "PROFITE", NOT SUBSTANCE. TO AVOID AN UNFAVORABLE PL 480 IMAGE, WE DON'T WANT TO PERMIT INDIA TO EXPORT WHEAT WHILE OUR CONCESSIONARY WHEAT IS COMING IN. LOGICAL ENOUGH, I WOULD AGREE. AT THE SAME TIME, FOR EQUALLY LOGICAL REASONS, THE GOI WANTS TO AVOID THE APPEARANCE OF VIOLATING ON ITS FACE AN INTERNATIONAL AGREEMENT CALLING FOR REPAYMENT IN KIND. (AS I HAVE SUGGESTED PREVIOUSLY, WE SHOULD REJOICE THAT THE GOVERNMENT OF INDIA TREATS ITS SOLEMN COMMITMENTS WITH SUCH SOLEMNITY--AN INCREASINGLY

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 NEW DE 00228 070429Z

RARE NATIONAL VIRTUE WHICH MORE THAN OUTWEIGHS ITHE VEXATIONS

WHICH THE INDIANS SOMETIMES GIVE US IN THEIR NEGOTIATIONS).  
THE ESSENTIAL FACT, WHICH BOTH SIDES RECOGNIZE, IS THAT REPAY-  
MENT IN KIND FROM INDIA IS UNLIKELY TO TAKE PLACE.  
THEREFORE THE QUESTION OF ACTUAL FOODGRAIN  
EXPORTS FROM INDIA TO THE USSR (TO THE EMBARRASSMENT OF THE  
USG) OR THE QUESTION OF ACTUAL VIOLATION OF THE INDO-SOVIET  
WHEAT LOAN AGREEMENT (THE THE EMBARRASSMENT OF THE GOI) DOES NOT  
ARISE. WE ARE DEALING THEN ONLY WITH THE WORLD OF APPEARANCES--  
IMPORTANT POLITICALLY TO BE SURE--BUT MANAGEABLE WITH THE  
PROPER APPROACH.

3. I AM ENCOURAGED TO KNOW WHAT YOU ARE STILL SEEKING A FORMULA  
WHICH WOULD MEET THE LEGITIMATE PROBLEMS OF BOTH INDIA'S SIDE  
AND OURS. I HOPE THIS CAN BE DONE QUICKLY IN ORDER TO AVOID  
YET ANOTHER ROUND OF RECRIMINATION. ONE POSSIBLE APPROACH WHICH  
APPEARS TO ME WORTH EXPLORING WOULD TAKE THE FOLLOWING LINES:

A. AVOID ANY REFERENCE WHATEVER TO "EXPORT LIMITATIONS"  
(OTHER THAN PROHIBITION ON REEXPORT OF US WHEAT) ON EITHER THE  
AGREEMENT PROPER OR IN THE SIGNED "AGREED MINUTES" BOTH PUBLIC  
DOCUMENTS AND HIGHLY VISIBLE. THIS STEP WOULD ITSELF RE-  
DUCE SUBSTANTIALLY THE INDIAN GOVERNMENT'S VULNERABILITY TO  
OPPOSITION CENSURE. SINCE THE EXPORT LIMITATION REQUIREMENT  
DERIVES FROM POLICY RATHER THAN THE PL 480 STATUTE,  
I ASSUME WE WOULD FACE NO GREAT LEGAL IMPEDIMENT AND  
B. EMPLOY A "SIDE LETTER" PREFERABLY SIGNED BY  
BOTH PARTIES WHICH WOULD EXPRESS MUTUAL UNDERSTANDINGS IN  
CONNECTIONS

WITH THE PL 480 AGREEMENT OF THE SAME DATE. THE  
SIDE LETTER WOULD INCLUDE THE FOLLOWING PRINCIPAL ELEMENTS:

1. GOI RECOGNITION OF THE LEGITIMATE INTEREST OF THE  
EXPORTING COUNTRY IN PRECLUDING EXPORTS BY THE IMPORTING  
COUNTRY DURING THE PERIOD OF DELIVERY OF THE  
IMPORTED FOODGRAINS; AND
2. USG RECOGNITION OF THE LEGITIMATE INTEREST OF THE  
IMPORTING COUNTRY IN HONORING ITS PRIOR INTERNATIONAL COMMIT-  
MENTS, INCLUDING COMMITMENTS TO REPAY WHEAT LOANS IN KIND; AND
3. GOI ASSURANCE THAT DURING THE PERIOD OF DELIVERY  
AND UTILIZATION OF THE PL 480 WHEAT NO REPAYMENTS IN KIND  
OF INDIAN WHEAT WILL BE MADE.

THUS, WE WOULD NOT BE ASKING FOR ANYTHING MORE THAT GOI  
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PAGE 03 NEW DE 00228 070429Z

HAS ALREADY AGREED TO WITH AUSTRALIA AND CANADA.

4. I HOPE YOU WILL CONCLUDE THAT THIS APPROACH-VERY MUCH IN  
THE NATURE OF A COMPROMISE SINCE BOTH SIDES WOULD IN EFFECT  
RECOGNIZE PRIVATELY THE REALITIES OF THE SITUATION--HAS SUFFI-  
ICIENT PROMISE TO WARRANT DISCUSSION WITH AMBASSADOR KAUL  
DURING HIS JANUARY 7 CALL ON THE SECRETARY. OTHERWISE, I  
AM COUNTING ON YOUR LAWYERS TO COME UP WITH ANOTHER PAIR

OF SISSERS TO CUT THIS GORDIAN KNOT.  
MOYNIHAN

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## Message Attributes

**Automatic Decaptioning:** X  
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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
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**Disposition Date:** 28 MAY 2004  
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**From:** NEW DELHI  
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**Original Handling Restrictions:** n/a  
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